

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CHRIS DEYERLE,

Petitioner,

vs.

LA GRANT, *et al.*,

Respondents.

3:12-cv-00125-RCJ-VPC

**ORDER**

On November 30, 2012, respondents filed a motion to extend time to file a responsive pleading to petitioner's petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF #11). Good cause appearing, respondents' motion is granted. Respondents shall file their response to the petition on or before January 14, 2013.

Also before the court is petitioner's motion for reconsideration of the denial of his motion for appointment of counsel (ECF #10).

Where a ruling has resulted in final judgment or order, a motion for reconsideration may be construed either as a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e), or as a motion for relief from judgment pursuant to Federal Rule 60(b). *School Dist. No. 1J Multnomah County v. AC&S, Inc.*, 5 F.3d 1255, 1262 (9<sup>th</sup> Cir. 1993), *cert. denied* 512 U.S. 1236 (1994).

1 Under Fed. R. Civ. P. 60(b) the court may relieve a party from a final judgment or order  
2 for the following reasons:

3 (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly  
4 discovered evidence which by due diligence could not have been  
5 discovered in time to move for a new trial under Rule 59(b); (3) fraud  
6 (whether heretofore denominated intrinsic or extrinsic),  
7 misrepresentation, or other misconduct of an adverse party; (4) the  
8 judgment is void; (5) the judgment has been satisfied, released, or  
discharged, or a prior judgment upon which it is based has been reversed  
or otherwise vacated, or it is no longer equitable that the judgment should  
have prospective application; or (6) any other reason justifying relief from  
the operation of the judgment.

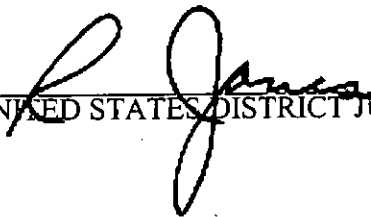
9 Motions to reconsider are generally left to the discretion of the trial court. *See Combs v. Nick Garin*  
10 *Trucking*, 825 F.2d 437, 441 (D.C. Cir. 1987). In order to succeed on a motion to reconsider, a party  
11 must set forth facts or law of a strongly convincing nature to induce the court to reverse its prior  
12 decision. *See Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665 (E.D. Cal. 1986),  
13 *aff'd in part and rev'd in part on other grounds* 828 F.2d 514 (9<sup>th</sup> Cir. 1987). Rule 59(e) of the Federal  
14 Rules of Civil Procedure provides that any "motion to alter or amend a judgment shall be filed no later  
15 than 28 days after entry of the judgment." Furthermore, a motion under Fed. R. Civ. P. 59(e) "should  
16 not be granted, absent highly unusual circumstances, unless the district court is presented with newly  
17 discovered evidence, committed clear error, or if there is an intervening change in the controlling law."  
18 *Herbst v. Cook*, 260 F.3d 1039, 1044 (9<sup>th</sup> Cir. 2001), *quoting McDowell v. Calderon*, 197 F.3d 1253,  
1255 (9<sup>th</sup> Cir. 1999).

19 In the order dated October 16, 2012, the court denied petitioner's motion for appointment  
20 of counsel because the petition appears sufficiently clear in presenting the issues that petitioner wishes  
21 to raise (ECF #5). Petitioner now argues that he should be appointed counsel because "when it comes  
22 to legal matters he is completely ignorant" (ECF #10). Petitioner has failed to make an adequate  
23 showing under either Rule 60(b) or 59(e) that this court's order denying his motion for appointment of  
24 counsel should be reversed.  
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1                   **IT IS THEREFORE ORDERED** that respondents' motion to extend time to file their  
2 response to the petition (ECF #11) is **GRANTED**. Respondents shall file their response to the petition  
3 on or before January 14, 2013.

4                   **IT IS FURTHER ORDERED** that petitioner's motion for reconsideration of the denial  
5 of appointment of counsel (ECF #10) is **DENIED**.

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7                   Dated this 15th day of January, 2013.

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11                   UNITED STATES DISTRICT JUDGE  
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